

Verne, B. Michael

From: [Redacted]
Sent: Tuesday, March 08, 2005 3:43 PM
To: Verne, B. Michael
Cc: Peay, Sandra M.
Subject: HSR Question

Instead of leaving a long winded voice mail, I presumed it would be easier to let you see my question in writing.

The situation involves the merger of Company X (which has no UPE) into Company Y, a wholly owned subsidiary of Company Z. The merger consideration to be paid to the shareholders of Company X is approximately \$40,000,000. As a condition to closing, however, Company Z must also repay approximately \$25,000,000 of Company's X's debt to third party unrelated lenders. My question is, in light of the fact that mergers are treated as the acquisition of voting securities, does the repayment of debt factor into the "size of the transaction" test or do we view the acquisition price as being only \$40,000,000.

If you could let me know, it would be very helpful. If you would prefer to call me, I can be reached at [Redacted]. Thank you.

[Redacted]

Do not include
DEBT.
B. Michael
3/8/05

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[Redacted]